
Commerce & Labor Committee

HB 1875

Brief Description: Using the retrospective rating program to improve worker safety.

Sponsors: Representatives Fromhold, Conway, Campbell, Wood, McCoy, Hunt, Simpson, Ormsby, Williams, Kenney, Chase, Moeller, Hasegawa and Cody.

Brief Summary of Bill

- Requires that sponsors of retrospective rating groups: (1) use certain funds for expenses directly related to substantially improving worker safety, accident prevention, and worker outcomes; (2) retain these funds as reserves to meet future assessments; or (3) return these funds to the members.
- Authorizes the Department of Labor and Industries to consider retrospective rating groups as single entities solely for the purpose of incentive payments.
- Requires that members of retrospective rating groups be employers in the same two-digit North American Industry Classification System (NAICS) classification as a majority of the group's other members.

Hearing Date: 2/15/05

Staff: Jill Reinmuth (786-7134).

Background:

In the late 1970s and the early 1980s, the Department of Labor and Industries (Department) developed and implemented a retrospective rating plan for groups of employers. This plan allowed groups of employers to assume a portion of industrial insurance risk. A group could agree that, following a policy period, premiums would be adjusted based on the group's actual losses during the policy period. The group would receive a refund if injury costs decreased, or an assessment if injury costs increased.

In 1980, as part of the development of the retrospective rating plan, the Legislature enacted Senate Bill 3169 (Laws of 1980, Chapter 129). This legislation authorized the Department to insure employers as a group under certain conditions, including the following:

- The occupations or industries of the employers in a retrospective rating group must be substantially similar; and

- The formation of a retrospective rating group must substantially improve accident prevention and claims management for employers in the group.

This legislation also authorized the Department to consider an employer group as a single entity for purposes of dividends or premium discounts.

In 1999 the Department requested and the Legislature enacted Senate Bill 6048 (Laws of 1999, Chapter 7). This legislation required the Department to offer a retrospective rating plan for groups of employers. This legislation also required the following:

- The sponsor of a retrospective rating group must exist for a purpose independent of insurance purposes;
- A group must be composed of employers who are substantially similar, considering their employees' services or activities;
- The group must seek to substantially improve workplace safety, injury prevention, and claims management for the group's members;
- The sponsor must select one of twelve broad industry or business categories for the group; and
- The Department must allow all risk classifications reasonably related to that business or industry category into the group.

Summary of Bill:

With regard to the Department of Labor and Industries' (Department's) retrospective rating program, provisions on how groups may use certain funds are added, and provisions on who may be added to or continue to be part of certain retrospective rating groups are modified.

Funds

The following funds must be used to administer a retrospective rating group's program or be retained as reserves to meet any future assessments:

- Enrollment fees and other payments made by the group's members to participate in the group;
- Incentive payments made by the Department to the group's sponsor; and
- Interest earned on reserves maintained by the group's sponsor to meet future assessments.

The funds used to administer the retrospective rating group's programs may be used only to pay for expenses directly related to substantially improving worker safety, accident prevention, and worker outcomes. These expenses may include safety education, risk management, claims monitoring, and return-to-work program-related assistance, as well as legal and investment-related expenses. Any funds not used for these purposes must be returned to the group's members.

If a retrospective rating group is disqualified from or does not reenroll in the plan, reserves maintained by the group's sponsor must be used to administer the group's program or pay the group's final obligations. Any reserves not used for these purposes must be returned to the group's members.

Each group's sponsor must report annually to the Department on funds used to administer the group's programs and retained as reserves to meet future assessments, and on expenses directly related to substantially improving worker safety, accident prevention, and worker outcomes. The Department must periodically inspect and review records of sponsors.

The Department may consider a group as a single employing entity for purposes of incentive payments to recognize substantial improvements in worker safety, accident prevention, and worker outcomes (instead of dividends or premium discounts).

Membership

Before allowing a group to participate in the retrospective rating program, the Department must ensure that certain criteria are met. The criteria include that the group be composed of employers, a majority of whom are classified in the same two-digit North American Industry Classification System (NAICS) classification.

An employer that is a member of an existing group may continue in that group even if the employer is not classified in the same two-digit NAICS classification as a majority of employers in the group. However, the employer may not continue in the group if, during any future enrollment period, they are classified in the same two-digit NAICS classification as a majority of employers in a different group.

An employer that is proposed for addition to a group must be classified in the same two-digit NAICS classification as a majority of employers in the group. However, the employer may be added to the group composed of the most similar employers if the employer is not classified in the same two-digit NAICS classification as a majority of employers in any group.

Rule-Making Authority: The bill does not contain provisions addressing the rule-making powers of an agency.

Appropriation: None.

Fiscal Note: Requested on February 10, 2005.

Effective Date: The bill declares an emergency, and provides for an immediate effective date.